

AMENDED IN ASSEMBLY APRIL 16, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2411**

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**Introduced by Assembly Member Caballero**

February 21, 2008

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An act to amend Sections 5097 and 5151 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2411, as amended, Caballero. Property tax: refunds.

Existing property tax law requires property taxes to be refunded ~~under certain circumstances~~ upon the filing of a claim, ~~and filed within 4 years after making of the payment sought to be refunded, within 1 year after the mailing of a specified notice, or within a specified period agreed to, whichever is later.~~ Existing property tax law also provides for the payment of interest on those refunds at the greater of, 3% per annum, or the county pool apportioned.

*This bill would require property taxes to be refunded, if a specified application for a reduction in an assessment has been filed, upon the filing of a claim within 1 year of specified events. This bill would also make clarifying changes to the time for filing a claim and to the method used to calculate interest on the refunds.*

*This bill would provide that changes made by this act shall not affect any litigation involving property tax refunds pending before January 1, 2009, as specified, and would declare that nothing in the legislative history of this act shall be construed as any indication of the meaning of the law as it existed prior to the effective date of this act.*

*By changing the manner in which local officials administer property tax refunds, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5097 of the Revenue and Taxation Code  
2 is amended to read:

3 5097. (a) No order for a refund under this article shall be made,  
4 except on a claim:

5 (1) Verified by the person who paid the tax, his or her guardian,  
6 executor, or administrator.

7 (2) ~~Filed~~ *Except as provided in paragraphs (3), filed* within four  
8 years after making of the payment sought to be refunded or within  
9 one year after the mailing of notice as prescribed in Section 2635,  
10 or the period agreed to as provided in Section 532.1, whichever is  
11 later.

12 (3) (A) *Filed within one year, if an application for a reduction*  
13 *in an assessment has been filed pursuant to Section 1603 and the*  
14 *applicant does not state in the application that the application is*  
15 *intended to constitute a claim for a refund, of either of the following*  
16 *events, whichever occurs first:*

17 (i) *After the county assessment appeals board makes a final*  
18 *determination on the application for reduction in assessment of*  
19 *the property, and mails a written notice of its determination to the*  
20 *applicant.*

21 (ii) *After the expiration of the time period specified in*  
22 *subdivision (c) of Section 1604 if the county assessment appeals*  
23 *board fails to hear evidence and fails to make a final determination*  
24 *on the application for reduction in assessment of the property.*

25 (B) *Notwithstanding Section 2635 or any other provision of*  
26 *law, in the case where an application for a reduction in an*  
27 *assessment was filed pursuant to Section 1603 and a reduction in*

1 *an assessment on the local roll has been made, the tax collector*  
2 *shall not be required to send a notice of overpayment to the*  
3 *taxpayer.*

4 (b) An application for a reduction in an assessment filed pursuant  
5 to Section 1603 shall also constitute a sufficient claim for refund  
6 under this section if the applicant states in the application that the  
7 application is intended to constitute a claim for refund. If the  
8 applicant does not so state, he or she may thereafter and within  
9 the period provided in paragraph-(2) (3) of subdivision (a) file a  
10 separate claim for refund of taxes extended on the assessment  
11 which applicant applied to have reduced pursuant to Section 1603  
12 or Section 1604.

13 (c) If an application for equalization of an escape assessment  
14 is filed pursuant to Section 1603, a claim may be filed on any taxes  
15 resulting from the escape assessment or the original assessment  
16 to which the escape relates within the period provided in paragraph  
17 (2) of subdivision (a) or within 60 days from the date the board of  
18 equalization makes its final determination on the application,  
19 whichever is later.

20 ~~SECTION 1. Section 5097 of the Revenue and Taxation Code~~  
21 ~~is amended to read:~~

22 ~~5097. (a) No order for a refund under this article shall be made,~~  
23 ~~except on a claim:~~

24 ~~(1) Verified by the person who paid the tax, his or her guardian,~~  
25 ~~executor, or administrator.~~

26 ~~(2) Filed within four years after making of the payment sought~~  
27 ~~to be refunded or the period agreed to as provided in Section 532.1;~~  
28 ~~whichever is later.~~

29 ~~(b) An application for a reduction in an assessment filed pursuant~~  
30 ~~to Section 1603 shall also constitute a sufficient claim for refund~~  
31 ~~under this section if the applicant states in the application that the~~  
32 ~~application is intended to constitute a claim for refund. If the~~  
33 ~~applicant does not so state, he or she may thereafter and within~~  
34 ~~the period provided in paragraph (2) of subdivision (a) file a~~  
35 ~~separate claim for refund of taxes extended on the assessment~~  
36 ~~which applicant applied to have reduced pursuant to Section 1603~~  
37 ~~or Section 1604.~~

38 ~~(c) If an application for equalization of an escape assessment~~  
39 ~~is filed pursuant to Section 1603, a claim may be filed on any taxes~~  
40 ~~resulting from the escape assessment or the original assessment~~

1 to which the escape relates within the period provided in paragraph  
2 (2) of subdivision (a) or within 60 days from the date the board of  
3 equalization makes its final determination on the application;  
4 whichever is later.

5 SEC. 2. Section 5151 of the Revenue and Taxation Code is  
6 amended to read:

7 5151. (a) Interest at the greater of 3 percent per annum or the  
8 county pool apportioned rate shall be paid, when that interest is  
9 ten dollars (\$10) or more, on any amount refunded under Section  
10 5096.7, or refunded to a taxpayer for any reason whatsoever.  
11 However, no interest shall be paid under the provisions of this  
12 section if the taxpayer has been given the notice required by  
13 Section 2635 and has failed to apply for the refund within 30 days  
14 after the mailing of that notice. For purposes of this section,  
15 “county pool apportioned rate” means the annualized rate of interest  
16 earned on the total amount of pooled idle funds from all accounts  
17 held by the county treasurer, in excess of the county treasurer’s  
18 administrative costs with respect to that amount, as of June 30 of  
19 the fiscal year preceding the date the refund is calculated by the  
20 auditor. For each fiscal year, the county treasurer shall advise the  
21 Controller of the county pool apportioned rate, and of computations  
22 made in deriving that rate, no later than 60 days after the end of  
23 that fiscal year. Any interest paid on a refund at a rate provided  
24 for by this subdivision as it read prior to January 1, 2008 2009,  
25 shall be deemed to be correct.

26 (b) The interest rate provided for in subdivision (a) does not  
27 apply to interest on refunds of those amounts of tax that became  
28 due and payable before March 1, 1993. Interest on refunds of  
29 amounts of a qualified tax shall be paid at that rate provided for  
30 by this section as it read prior to January 1, 1993. As used in this  
31 section, a “qualified tax” means a tax that became due and payable  
32 before March 1, 1993, and had not been refunded as of April 6,  
33 1995. This subdivision shall not be construed to affect the interest  
34 paid on refunds of those amounts of tax that became due and  
35 payable before March 1, 1993, and have been refunded as of April  
36 6, 1995.

37 (c) (1) The interest computation period shall commence with  
38 the date of payment of the tax when any of the following apply:

39 (A) A timely application for reduction in an assessment was  
40 filed, without regard to whether the refund ultimately results from

1 a judgment or order of a court, an order of a board of equalization  
2 or assessment appeals board, or an assessor's correction to the  
3 assessment roll.

4 (B) The refund is pursuant to a roll correction resulting from  
5 the determination or adjustment by the assessor or a local  
6 assessment appeals board of a base year value.

7 (C) The refund results from a correction to the assessment roll  
8 pursuant to Section 4831 or 4876.

9 (2) Interest on refunds of taxes on property acquired by a public  
10 agency in eminent domain shall accrue from the date of recordation  
11 of the deed.

12 (3) In all other cases the interest computation period shall  
13 commence on the date of filing a claim for refund or payment of  
14 the tax, whichever is later. However, in the event of the granting  
15 of property tax relief pursuant to Section 69, 69.3, or 170, interest  
16 is not payable on any resulting refund of taxes, provided that  
17 payment of that refund of taxes is made within 120 days after the  
18 county assessor has sent authorization for the reduction to the  
19 county auditor.

20 (d) The computation of interest shall terminate as of a date  
21 within 30 days of the date of mailing or personal delivery of the  
22 refund payment.

23 (e) The interest charged shall be apportioned to the appropriate  
24 funds, as determined by the county auditor.

25 (f) The amendments made to this section by Section 4 of Chapter  
26 801 of the Statutes of 1996 shall apply to all refunds made after  
27 January 1, 1997.

28 *SEC. 3. (a) The amendments made by this act to Sections 5097*  
29 *and 5151 of the Revenue and Taxation Code shall not affect any*  
30 *litigation involving property tax refunds pending before January*  
31 *1, 2009, that assert either of the following:*

32 *(1) Claims of miscalculation of interest paid under Section 5151*  
33 *of the Revenue and Taxation Code.*

34 *(2) Claims interposing noncompliance with Section 2635 of the*  
35 *Revenue and Taxation Code to revive property tax refund claims*  
36 *otherwise outside the tax refund limitation period of Section 5097*  
37 *of the Revenue and Taxation Code.*

38 *(b) Nothing in the legislative history of the amendments made*  
39 *by this act shall be construed as any indication of the meaning of*

1 *the law as it existed prior to the effective date of the amendments*  
2 *made by this act.*  
3 *SEC. 4. If the Commission on State Mandates determines that*  
4 *this act contains costs mandated by the state, reimbursement to*  
5 *local agencies and school districts for those costs shall be made*  
6 *pursuant to Part 7 (commencing with Section 17500) of Division*  
7 *4 of Title 2 of the Government Code.*

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